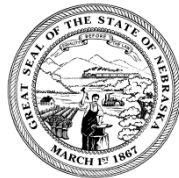


# Nebraska Worker Training Program

## Program Guidelines



**Investing in Nebraska's Workers,  
Communities and Businesses**



[Rev. 10/27/2009]

# Nebraska Worker Training Program

## Table Of Contents

## Page

|   |           |
|---|-----------|
| <b>SECTION OVERVIEW.....</b>                            | <b>ii</b> |
| <b>SECTION I. NEBRASKA WORKER TRAINING BOARD .....</b>  | <b>1</b>  |
| AUTHORITY.....  | 1         |
| LEGISLATIVE BACKGROUND .....                            | 1         |
| BOARD MEMBERSHIP; ADMINISTRATION .....                  | 1         |
| PROGRAM FUNDING; GOALS .....                            | 2         |
| <b>SECTION II. GENERAL TERMS AND DEFINITIONS .....</b>  | <b>4</b>  |
| PROGRAM DEFINITIONS.....                                | 4         |
| <b>SECTION III. PROGRAM ADMINISTRATION .....</b>        | <b>10</b> |
| PROGRAM ADMINISTRATION .....                            | 10        |
| NEBRASKA TRAINING & SUPPORT TRUST FUND; USES .....      | 10        |
| <b>SECTION IV. WORKER TRAINING PROGRAM GRANTS .....</b> | <b>12</b> |
| GRANT ELIGIBILITY .....                                 | 12        |
| SELECTION CRITERIA.....                                 | 12        |
| SPECIAL EMPLOYMENT TRAINING PROJECTS .....              | 13        |
| RETRAINING CERTIFICATION .....                          | 13        |
| Displacement.....                                       | 14        |
| High-Performance Workplace .....                        | 14        |
| Product or Services Diversification .....               | 15        |
| <b>SECTION V. GRANT APPLICATION PROCEDURES .....</b>    | <b>16</b> |
| GRANT APPLICATION PROCESS.....                          | 16        |
| Application Process and Timeline .....                  | 16        |
| Technical Assistance .....                              | 16        |
| GRANT AWARDS; AVAILABILITY .....                        | 17        |
| Funding; Grants.....                                    | 17        |
| GRANT APPLICATION REQUIREMENTS; PROJECT BUDGET.....     | 17        |
| REIMBURSEMENT; ALLOWABLE COSTS.....                     | 18        |
| EMPLOYER MATCHING REQUIREMENTS; EXEMPTIONS.....         | 20        |
| GRANT APPLICATION PACKET REVIEW .....                   | 21        |
| <b>SECTION VI. PROGRAM / PROJECT RECORDS .....</b>      | <b>22</b> |
| PUBLIC RECORDS .....                                    | 22        |
| TRAINING PROVIDER ELIGIBILITY; RECORDS .....            | 22        |
| PROJECT REVIEW; MONITORING.....                         | 23        |
| <b>SECTION VII. CONTRACTS AND AGREEMENTS .....</b>      | <b>25</b> |
| CONTRACTS / CONTRACT PERFORMANCE .....                  | 25        |
| Contracts and Contract Amendments .....                 | 25        |
| Deobligation of Unearned Funds .....                    | 26        |
| Audits.....   | 26        |
| Collection Procedures.....                              | 26        |
| APPEAL PROCESS .....                                    | 27        |
| <b>SECTION VIII. PROGRAM PLANNING.....</b>              | <b>28</b> |
| ANNUAL REPORT .....                                     | 28        |
| <b>SECTION IX. INDEX.....</b>                           | <b>I</b>  |

## **SECTION OVERVIEW**

---

**SECTION I** Provides a historical background on the creation of the reciprocal Trust funds and establishment of the Worker Training Board.

**SECTION II** Provides Terms and Definitions.

**SECTION III** Addresses operations of the Worker Training Program within the Department of Labor, program assessment measures, specified uses of the Trust's monies, and outlines provisions for waivers.

**SECTION IV** Describes grant distribution objectives with respect to size, type and location of business.

**SECTION V** Discusses the grant application process and timeline.

**SECTION VI** Covers requests for public documents, training record specifications and provides for the ongoing review of contracts and projects.

**SECTION VII** Discusses contracts and related procedures.

**SECTION VIII** Addresses the statutory responsibility of reviewing program effectiveness. Also outlined are the specific, measurable indicators upon which the Board shall report annually.

**SECTION IX** Index.

## **SECTION I. NEBRASKA WORKER TRAINING BOARD**

---

### **AUTHORITY**

Pursuant to the authority assigned by the Governor and Legislature of the State of Nebraska granted by *Neb. Rev. Stat.* §§48-622.01 through 48-622.03, the Nebraska Worker Training Board prescribes the following guidelines implementing the Nebraska Worker Training Program and administration of the Nebraska Training & Support Trust Fund.

### **LEGISLATIVE BACKGROUND**

The 1994 legislation that established the Worker Training Board amended the Nebraska Employment Security Law (*Neb. Rev. Stat.* §§48-601 through 48-671) to provide for the use of reciprocal trust funds to enhance the skills of workers through job-specific training programs financed from a portion of employer combined tax.

### **BOARD MEMBERSHIP; ADMINISTRATION**

1. The Nebraska Worker Training Board consists of seven members appointed by the Governor. Board membership consists of:
  - A. A representative of employers (appointed by the Governor),
  - B. A representative of employees (appointed by the Governor),
  - C. A representative of the public (appointed by the Governor),
  - D. The Commissioner of Labor,
  - E. The Director of Economic Development,
  - F. The Commissioner of Education, and
  - G. The Executive Director of the Nebraska Community College Association.
2. Terms of office for Nebraska Worker Training Board members are determined by the Governor. The Governor also designates a Board Chair.
3. Program disbursements require the approval of the Governor, upon recommendation of the Commissioner of Labor.
4. The Nebraska Worker Training Board's administration is part of the Department of Labor, Office of Employment and Training. The Commissioner employs staff to serve as the statewide liaison for the Nebraska Worker Training Board and performs other duties, as required.

### **STATEMENT OF PURPOSE**

The Nebraska Worker Training Board does hereby declare:

1. The availability of a highly skilled, educated workforce is critical to the economic future of Nebraska's employers and workers.
2. Investment in public and private training, retraining and upgrading of existing Nebraska workers is essential to:

- A. The development and expansion of business, commerce and industry
  - B. The economic growth of the state, and
  - C. The full employment, welfare and prosperity of it's citizens.
3. Employers in existing, new and expanding industries experience acute needs for skilled workers.
  4. Changes in the state, national and global economies will require worker retraining and upgrading initiatives to promote and enhance productivity and maintain competitiveness.
  5. Employers, workers, education, labor organizations and the public sector must work together to form collaborative partnerships to insure Nebraska's success in workforce development.

## **BOARD FUNCTIONS**

The Nebraska Worker Training Board prepares:

1. An annual program plan for the upcoming fiscal year containing guidelines for the program financed by the Nebraska Training & Support Trust Fund. The guidelines shall include:
  - A. Guidelines for certifying training providers,
  - B. Criteria for evaluating requests for the use of money under *Neb. Rev. Stat.* §48-622.02, and
  - C. Guidelines for when employers will be required to provide matching funds.
2. An annual report to the Governor.

## **PROGRAM FUNDING; GOALS**

Training programs proposed for funding by the Nebraska Training & Support Trust Fund shall:

1. Encourage business investment in human resources that enhance the productive capabilities and skill levels needed to enable workers to meet the challenges and participate in the high-performance workplace of the future.
2. Enhance the skills of workers through job-specific training.
3. Promote the retention and expansion of the Nebraska workforce and employers.
4. Develop program participant's marketable skills and competencies, increase earning power and result in secure jobs for those who successfully complete training.

5. Give priority to existing workers who are residents of this state and engaged in the trade for which they are receiving training.
6. Program training grants will be awarded on criteria designed to leverage and maximize private funding.

## **SECTION II. GENERAL TERMS AND DEFINITIONS**

---

### **PROGRAM DEFINITIONS**

The following words and terms shall have the following meanings, unless the context clearly indicates otherwise.

**Apprenticeship training program** – An apprenticeship training program registered with the Bureau of Apprenticeship and Training, Employment and Training Administration, United States Department of Labor.

**Authorized employer representative** - An individual authorized to bind the company under the terms of the contract.

**Benefits** - Perquisites paid by an employer to an employee, either voluntarily or by collective bargaining agreement in addition to the employee's wages.

**Board** - The Nebraska Worker Training Board.

**Business development** - Includes in-state relocation, expansion, product or service diversification, or technological change.

**Commissioner** - The Commissioner of Labor.

**Community-based organization** - A public or private non-profit entity authorized to do business within the State of Nebraska and exempt from taxation under Section 501(c) of the United States Internal Revenue Code, and which has a purpose of the organization providing education, employment or training services.

**Competencies** - The level of skills that the employer or apprenticeship training program determines to be necessary for a participant to successfully perform a specific job. This includes measures of the participant's expected learning gains or skill mastery for which they are being trained. Such competencies may be specified by the employer, by industry associations, registered apprenticeship training programs, or by inclusion in courses approved by the Nebraska Department of Education or the Nebraska Coordinating Commission on Higher Education and be consistent with ISO 9000 certification standards, or other credible sources as evidenced by their inclusion in the application.

**Completed application** - A document submitted by a grant applicant on the forms developed by the Nebraska Worker Training Program that provides information specified in sufficient detail, as determined by the Department, to write a contract for a grant awarded under the Program guidelines.

**Contract** - The written, legally binding obligation between the Department and each employer or apprenticeship training program that receives a grant.

**Contractor** - The grantee or his, her, or its authorized representative.

**Days** - Calendar days unless otherwise specified as "working" days.

**Demand occupation** – A high-skill, high-demand, high-wage occupation in which, as a result of business development, there are or will be positive growth-to-replacement ratios within the next 12 to 24 months, according to the best available sources of state and local labor market information.

**Demonstrable shortage** - An insufficient number of workers trained to perform the particular skills required by participating employers as a necessary part of doing business.

**Department** - The Nebraska Department of Labor.

**Emerging occupation** - An occupation that arises through forces related to technological changes in the workplace, and that requires customized education or training before a person trained in another field can be reasonably expected to perform the duties of the occupation.

**Employee** - An individual who performs services for another under contract of hire, whether express or implied, or oral or written.

**Employer** - An employer that, unless otherwise provided, is a contributory employer and is in compliance with the reporting and payment requirements of the Nebraska Employment Security Law, as determined by the Department.

**Employer organization** - An organization funded by a group of employers that provides employment-based training. Such organization need not be in the regular business of providing training.

**Existing job** - A position for which is an incumbent employee or a job opening prior to the date the grant-funded project is scheduled to begin,

**Governor** - The Governor of the State of Nebraska.

**Grant applicant**- Any employer in operation for one year or any organization sponsoring an apprenticeship training program and has successfully met Program guidelines established by the Board.

**Grantee** - An eligible recipient of the Nebraska Training & Support Trust Fund (NTST) awarded grant monies in accordance with *Neb. Rev. Stat. §§48-622.01 to 48-622.03* and these guidelines.

**Grantor** - The State of Nebraska.

**Group of employers:**

1. Two or more employers which combine efforts to form a consortium in order to meet the common training needs by specific occupational categories or address common training needs based on industrial trends, and/or



2. Two or more employers which combine efforts whereby one employer assumes liability for the Worker Training Program contract, with secondary agreements between the primary employer and the remaining employers to provide employee training, and/or
3. A professional association, trade association, chamber of commerce or other formally organized business association or joint apprenticeship training, committee.

**Indirect cost** - The cost of business that remains constant regardless of production (i.e., payroll taxes including FICA, FUTA, State Unemployment combined tax, and Workers' Compensation which are considered by the Department of Labor as a mandatory tax incurred as a business expense) and are non-duplicative and not specifically identified in any other line item category of the budget.

**In-kind contributions** - Those direct and indirect costs incurred as all or part of an employer's matching share of a grant that are attributable to a training project either as a reasonable training or administrative cost that demonstrates the employers' monetary commitment to the training program.

**Job** - Employment on a basis customarily considered full-time for the applicable occupation and industry.

**Job-related basic skills** - The knowledge and abilities necessary to communicate and to function effectively in the workplace. These skills must be integrated as part of the job-related occupational skills training curricula and must be consistent with the requirements of the employer's business plan.

**Job-related occupational skills** - The knowledge and abilities the employer specifies as necessary for a specific job, and may include workplace skills such as the productive use of resources, interpersonal communication, information, systems, and technology. These skills specifications shall be consistent with the requirements of the employer's business plan.

**Labor market information** - Economic, occupational, geographic and demographic characteristics of the labor market that encompasses population and labor force composition, industry and occupational trends and outlook, job opportunities, hiring and training practices, skill requirements and trends, wages, labor force estimates, career ladders, and occupational supply and demand as provided by the Department.

**Labor organization**- Any organization of any kind, or any agency or employee representation committee or plan in which employees participate and which exists for the purpose, in whole or in part, of dealing with one or more employers concerning wages, rates of pay, hours of employment or condition of work, labor disputes or grievances.

**Living wage job** - Means a job which offers:

1. Wages greater than or equal to the state average weekly wage,
2. Benefits, such as vacation leave, sick leave, and insurance coverage,

3. Reasonable opportunities for continued skill development and career path advancement, and
  - A. A substantial likelihood of long-term job security, or
  - B. Other similar measures as identified by the Board.

**Matching costs** - The dollar value of the private contributions from an employer required under the Nebraska Worker Training Program, whether they be dollar contributions or in-kind contributions.

**New job** - A position which did not exist in this state in the employer's business prior to the date the training is scheduled to begin. This may include an employee in an existing job who is being retrained for a new job with new job-related occupational skills.

**Program** -The Nebraska Worker Training Program.

**Program expenses** -The costs incurred by the Department for its operation of the Program, which are not included in the cost of specific projects.

**Project** - A specific employment training activity for which an employer or apprenticeship training provider developed and implemented a plan and entered into a contract.

**Project duration** -The length of time for which the training grant has been authorized by the Commissioner.

**Reimbursable costs** -Those expenses in a training project that are reimbursed by a grant from the NTST fund. Costs related to direct training and administrative costs for a project are reimbursable costs.

**Reimbursement** - Payments made by the Department as directed by the Commissioner.

**Retained in employment** -The trainee has been retained in a job:

1. With definite career potential and a substantial likelihood of long-term job security,
2. Directly related to the training provided, and
3. With a single employer for at least 45 days after the end of training in Nebraska or in the case of members of labor organizations participating in apprenticeship training programs, remain eligible for referral as a member in good standing at a union hall located in Nebraska.

**Size of Employer** - For the purposes of Program priorities and considerations a:

1. Small business means an employer or firm with fewer than 100 employees.
2. Midsize business means an employer or firm with at least 100 employees, but less than 500 employees.

3. Large employer means an employer with 500 or more employees.
4. For the purposes of these guidelines, a company may not be considered a small or midsize business if it is a subsidiary corporation. "Subsidiary corporation" means a corporation that is subject to a parent corporation that has the power either directly or indirectly or through another corporation or series of other corporations to elect a majority of its directors. A "franchise" may be considered a small business if it meets the above definition and consists of an arrangement in which the owner of a trademark, trade name, or copyright licenses others, under specified conditions or limitations, to use the trademark, trade name or copyright and the business relationship between the two parties is an arm's-length relationship between two independent contractors with their respective rights determined by a contract.

**Skills** - Aptitudes or abilities that are necessary to execute or perform a job, including the ability to use one's knowledge effectively and readily.

**State average weekly wage** - The annual average of the average weekly wage of workers in this state as of September 1<sup>st</sup> of each year as determined by the Department.

**Subcontract** - A written agreement between an applicant and a provider or administrative entity that is signed before a project has been approved and a grant awarded which details the rights and responsibilities of each party to the agreement. This can include the designation of a provider or administrative entity as a fiscal agent.

**Targeted industry** - An industry that promotes high-skill, high-wage, high-demand jobs, as determined by the Board.

**Technical assistance** - Direct assistance by the Department or referral to local or regional sources of technical assistance. The Department may suggest technical assistance or referral and may provide technical assistance for the completion of the application only on the request of the applicant.

**Technological change** - An advance in product design or production technique that enhances production efficiency or product marketability.

**Trainee** - An eligible participant in a funded Program project.

**Training** - The delivery of instructional experiences to develop and/or improve job-related occupational skills for jobs with definite career potential and the substantial likelihood of long-term job security. Training shall be delivered as classroom, laboratory or structured, on-site training. Each of these training methods is equally valuable in the delivery of training.

Classroom training is formal instruction provided to a group of individuals, in a classroom setting removed from the trainee's usual work environment, meeting regularly for training in a specific skill under the constant and direct guidance of a qualified instructor.

Laboratory training is "hands-on" instruction or skill acquisition conducted in a non-productive environment, or simulated work setting, under the direct training of a laboratory instructor that may require the use of specialized equipment or facilities by the trainee. The instructor's time during laboratory training must be dedicated exclusively to the instruction of trainees.

Structured, on-site training is supervised training conducted at an employer work site during normal working hours which allows the trainee to transfer and test knowledge/skills learned in the classroom/laboratory training to the worksite.

**Training provider** - An entity that provides employment-related training. The term includes individuals, employers, employer associations, labor organizations, community-based organizations, training consultants, community colleges, public and private schools, technical institutes, colleges, universities, and proprietary schools, as defined in the Nebraska Revised Statutes.

**Total project cost** -The sum of costs related to direct training plus administrative costs funded by a grant awarded under this Program.

**Upgrade** - Training in industries and demand or emerging occupations which provides trainees or retrainees with skill and career advancement.

**Written notification of layoff** - A document prepared by the employer/contractor where a potential retrainee is currently employed and received by the employee/retrainee either in person or by mail, stating that the employee will be laid off.

## **SECTION III. PROGRAM ADMINISTRATION**

---

### **PROGRAM ADMINISTRATION**

1. The Nebraska Worker Training Program is a workforce development incentive program to further develop employment opportunities for existing Nebraska employees while meeting the skill and human resource needs of employers and communities throughout the state.
2. The Program shall give priority to the creation and retention of living wage jobs and focus on employers in industries that promote high-skill, high-wage or high-demand occupations that provide those jobs.
3. The Department shall support the Board by providing administrative assistance which may include, but is not limited to, labor market information and research, projections of occupational demand and industry growth, information on alternative training strategies, and other administrative, legal or fiscal services deemed necessary to support program functions on a cost reimbursable basis. The Commissioner shall employ personnel as necessary to administer the Program.

### **NEBRASKA TRAINING & SUPPORT TRUST FUND; USES**

1. The Nebraska Training & Support Trust Fund is established as a special trust fund in the custody of the State Treasurer, separate and apart from all public money or funds of this state. The fund is composed of:
  - A. Interest transferred into the fund from the State Unemployment Insurance Trust Fund (SUIT),
  - B. Potential gifts, grants, and other donations received by the Department for the fund, and
  - C. Any potential amounts appropriated by the Legislature for the Program.
2. The Program is funded through the Nebraska Training & Support Trust Fund. Any money in the Nebraska Training & Support Trust Fund shall be used for:
  - A. Administrative costs of establishing, assessing, collecting and maintaining state unemployment insurance tax liability and payments,
  - B. Administrative costs of creating, maintaining and dissolving the State Unemployment Insurance Trust Fund and the Nebraska Training & Support Trust Fund,
  - C. Support of public and private job training programs designed to train, retrain, or upgrade work skills of existing Nebraska workers,
  - D. Training of Nebraska residents hired as workers by companies locating to Nebraska,

- E. Training new employees of expanding Nebraska business, and
- F. Payment of unemployment insurance benefits if solvency of the state's account in the Unemployment Trust Fund and of the State Unemployment Insurance Trust Fund so requires.

## **SECTION IV. WORKER TRAINING PROGRAM GRANTS**

### **DISTRIBUTION OBJECTIVES**

1. It is the intent of the Board that the Commissioner shall give consideration to the size, industry, and geographic location of grant applicants.
2. It is the goal of the Board that 20 percent of grant funds will be awarded to small employers, 20 percent to mid-size employers, 20 percent to large employers, and up to 40 percent for special demonstration projects and apprenticeship training programs.
3. A grant may not be awarded for a project if the project will impair existing contracts for services or collective bargaining agreements, except that a project inconsistent with the terms of a collective bargaining agreement may be undertaken with the written concurrence of the collective bargaining unit and the employer or employers who are parties to the agreement.

### **GRANT ELIGIBILITY**

The following entities may apply to the Commissioner for a grant under this Program:

1. One or more employers to secure training for demand occupations in a particular industry,
2. One or more employers acting in partnership with an employer organization, labor organization, or community-based organization to secure training for demand occupations in a particular industry,
3. One or more employers acting in partnership with a consortium of one or more training providers to secure training for demand occupations in a particular industry, or
4. One or more labor organizations or other entities providing an apprenticeship training program.

### **SELECTION CRITERIA; POLICY STATEMENT**

1. Worker training grant activities may be conducted in one or more areas which train, retrain or upgrade existing Nebraska workers. The key to developing a competitive grant request is to design training activities which are clearly connected to a company's commitment to improve productivity within a context that develops high-skill, high-demand, high-wage occupations.
2. The Program established through these guidelines is to be coordinated with all existing employment training programs and economic development programs, including but not limited to programs such as the Workforce Investment Act of 1998, the Welfare Reform Act, the Nebraska Community Colleges, vocational education programs, and other related programs under the Departments of Economic Development, Education or Labor.

## **SPECIAL EMPLOYMENT TRAINING PROJECTS**

The Commissioner may allocate up to 40 percent of the annually available training funds for funding special employment training projects and apprenticeship training programs by:

1. Supporting retraining for workers, in occupations that pay 100 percent of the state or regional average hourly wage, provided that the employment may not result in earnings of less than 95 percent of the state average hourly wage.
2. Encouraging the development of new industries, including advanced technology industries, that contribute to high-skilled, high-wage, high demand employment and economic vitality of Nebraska by supporting training programs advancing the development of new industries in the state resulting from the grant applicant's training and/or retraining programs.
3. Supporting efforts that address the training and employment of workers affected by industry downsizing.
4. Stabilizing employment in fields where there is a demonstrated deficit of trained employees and clear career advancement opportunities.
5. Supporting small business entrepreneurial training in business management and related skills for workers to enhance the competitive position of businesses with at least one full-time but fewer than 10 full-time employees that are registered with the Department and have paid unemployment insurance taxes for at least six months prior to contract development.
6. Supporting apprenticeship training programs by paying training stipends to participants in apprenticeship training programs. Training stipends shall be distributed directly to the apprenticeship training provider for distribution to participants who successfully complete the apprenticeship training. The apprenticeship training provider shall send a claim for reimbursement to the Commissioner for training stipends paid by the provider, but not more often than monthly.
7. Support training programs for workers of reimbursable employers when the training involves high skill, high wage, or high demand positions.

## **RETRAINING CERTIFICATION**

1. All employers seeking retraining for current workers shall justify the need for retraining. This justification may be accomplished by completion of a retraining certification which documents the need for retraining.
2. The retraining certification shall meet one of the following three categories and accompanying requirements:



## **Displacement**

1. Certification of the specific facts that threaten the continued employment of the trainees which specifies the reasons why employees are likely to be displaced and claiming unemployment insurance benefits if not retrained.
2. The certification shall include, but is not limited to, the following information:
  - A. An explanation of trainees' current job skills,
  - B. An explanation of the specific changes that will occur in those job skills; including a description of the skills that trainees will be lacking once the changes take place,
  - C. The reasons why the changes are taking place, and whether they are mandatory or elective on the part of the employer,
  - D. Whether there is a monetary investment or other planned action needed to make the required changes, the approximate amount of the investment, and the time frame for the planned action within the term of the agreement,
  - E. An estimate of what will happen to the employees if they do not learn the new skills, and
  - F. Whether the employees could remain in their current positions or in equivalent positions without the proposed training.

## **High-Performance Workplace**

Specific facts which support the employer's current adaptation to a high-performance workplace or projected plan to adapt to a high-performance workplace including but not limited to:

1. Greater reliance on workers who are contributing to the achievement of the mission of the organization, including but not limited to involving workers in problem-solving activities,
2. Commitment from top management to alter the work system and thus undergo a cultural change,
3. Responsiveness to changing customer demands,
4. Emphasis on on-going retraining to continually upgrade worker skills and enhance job security of the employer's workforce, and
5. Labor-management partnership and cooperation, if a collective bargaining agreement exists. The union must be involved as a partner in the planning stages of the adaptation, not just sign off on the agreement.

## **Product or Services Diversification**

1. Specific facts which support the employer's current diversification of production of goods or services, or projected plan to implement such diversification, including the identification of the new goods or services which will be produced, and an estimate of the effect the diversification will have on the employer's competitive position within the industry. The certification shall be provided in writing on the employer's letterhead, and signed by an employer representative with the knowledge and authority to make the statements.
2. In the event that retrainees are covered by a collective bargaining agreement, a union officer or business representative shall also sign the certification or provide a letter from the union to indicate concurrence with the proposed training project.

## **SECTION V. GRANT APPLICATION PROCEDURES**

### **GRANT APPLICATION PROCESS**

1. Any eligible employer or apprenticeship training program requesting funds for training purposes shall complete an application for funding.
2. The Commissioner shall not pay for the costs of preparing an application nor shall it reimburse an applicant or any employer for retroactive training costs incurred prior to the start date of the contract.
3. In order to ensure compliance with *Neb. Rev. Stat. §§4-108 through 4-114*, each person making application for a training grant shall certify in a format approved by the Department of Administrative Services that he/she is a citizen of the United States or a qualified alien and that all workers to be trained under the grant are citizens of the United States or qualified aliens.

### **Application Process and Timeline**

1. Any eligible entity desiring to request funds shall submit an application for funding.
2. Within 5 business days after receiving an oral or written request for an application from an applicant, the Department shall send an application packet to the applicant.
3. Within 10 business days after receiving an application, the Department shall notify the applicant if the application is incomplete. The Department shall specify in writing the additional information required to complete the application. With this notification to the applicant, the Department shall identify a contact person on its staff who is available to assist the applicant in completing the application.
4. Following the Department's review, the Commissioner will act on the application. In acting on the application, the Commissioner may approve or disapprove the application, or request the applicant to modify all or part of the application. The Commissioner shall act on a completed application not later than the 30th day after the date on the close of the calendar quarter in which the application is filed with the Department.

### **Technical Assistance**

The Department may provide technical assistance to applicants in formulating the required training plan. Such assistance may include direct assistance by Department staff or referral to local or regional sources of technical assistance such as local or regional providers, Small Business Development Centers, local or regional economic development corporations, chambers of commerce, business and trade associations, or such other sources as the employer may decide to use. The Department will provide technical assistance only at the request of the applicant.

1. Cost for the preparation of an application is the responsibility of the applicant.
2. Costs incurred by an applicant prior to the application for a grant are not reimbursable.

3. Participating businesses must be prepared to submit financial information, including income statements, balance sheets, and cash-flow statements for the three-year period preceding the date of application.

## **GRANT AWARDS; AVAILABILITY**

### **Funding; Grants**

1. Training grants are awarded subject to the availability of funds. To ensure availability of funds throughout the fiscal year, the Commissioner may award grants on a quarterly allocation of funds or may retain grant funds for future award. In deciding which projects to fund, the Commissioner shall be guided by the funding guidelines set forth herein.
2. In July of each year, the Board shall review the funding priorities set forth and consider the adoption of amendments to these guidelines.

## **GRANT APPLICATION REQUIREMENTS; PROJECT BUDGET**

1. One or more employers; one or more employers acting in partnership with an employer organization, labor organization, apprenticeship training provider or community based organization; or one or more employers acting in partnership with a consortium composed of other employers may submit an Application For Funding With The Worker Training Program.
2. Employees obtained from agreements with employee leasing firms or professional employer organizations are eligible to participate in training as employees of the client company if they are on assignment to the client company for an indeterminate period of time expected to last twelve consecutive months or more. Temporary employees [as defined in *Neb. Rev. Stat. §48-602(25)*] obtained by a client company from agreements with a Temporary Help Firm [as defined in *Neb. Rev. Stat. §48-602(26)*] are not eligible to participate in training as employees of the client company.
3. The Application shall include:
  - A. The employer's, apprenticeship training provider or other sponsoring entity's name, address, phone number, Nebraska Unemployment Insurance Employer Account Number and Federal Identification Number, a description of the employer's primary business activity and the name of an authorized representative.
  - B. Designation of a lead entity as the fiscal agent for purposes of receiving and distributing grant funds in the case of applications for a grant by one or more employers acting in concert or partnership, or a consortium.
  - C. A statement of the need and purpose of the training including the number and kind of jobs available, geographic location of those jobs, skills required for the identified jobs and the wages to be paid upon successful completion of the training. For existing jobs, the wage on the date the project is scheduled to begin shall also be stated.

- D. The goals, objectives and outcome measures for the project including a description of how this training will enhance the employer's ability to maintain competitiveness and enhance productivity.
- E. A description of the career potential and substantial likelihood of long-term job security offered by the employer following training.
- F. An estimate of the training and administrative expenses.
- G. Identification of the type of training proposed and the number of trainees served. The proposed start and end date of the training project.
- H. A description of how participant's skill levels shall be assessed immediately prior to the start date of the project and upon completion of the training.
- I. Identification of third party training providers, or administrative service providers and their respective certification in their field of expertise, including all subcontractors.

### **Training Project Budgets**

Each application shall include a budget with line item breakdown of costs consistent with the guidelines of the Program. The budget shall include:

- 1. Specification of costs related to direct training.
- 2. Specification of administrative costs.
- 3. Specification of any matching contributions. Participating businesses must provide matching funds toward Program costs. The Department will assist in identifying appropriate matching contributions. Apprenticeship training programs shall not require a specific employer match.
- 4. A budget with line item breakdown of costs shall become part of any contract for grant funds awarded.

### **REIMBURSEMENT; ALLOWABLE COSTS**

- 1. Costs related to direct training may include:
  - A. Tuition,
  - B. Fees,
  - C. Books and classroom materials,
  - D. Instructor wages, salaries and reasonable benefits if the instructor is not an employee of a public education institution providing the training,

- E. Rental costs during the term of the project,
  - F. Reasonable costs of pre- and post-training participant costs of purchasing approved curricula specified in the applicant's training plan if there is not already a course offering at a convenient public education institution for which the grant is paying tuition and fees,
  - G. Costs of curriculum design,
  - H. Wages, salaries and reasonable benefits of instructional aides, and
  - I. Other such reasonable costs related to direct training.
2. In the case of apprenticeship training programs provided by a labor organization to its members, if the training program involves at least six hours of training in a single calendar day, reimbursable costs may include a training stipend for each trainee in an amount not to exceed one-fifth of the maximum weekly unemployment benefit amount available on the date of application (as determined in accordance with *Neb. Rev. Stat. §48-624*) for each day the worker attends the apprenticeship training program.
  3. Reimbursement for costs related to direct training shall not include:
    - A. The lease, rental, purchase or construction of facilities,
    - B. The purchase of capital equipment, or
    - C. Salaries, wages, or benefits paid to personnel assigned to manage or report on the project or the contract agreement.
  4. Reimbursement for costs may include the purchase or construction of a specialized facility or equipment whose use is limited to the type of training specified in the grant application, particularly facilities or equipment providing for training in skill sets particular to emerging industries.
  5. Reimbursement for training shall not be considered for a trainee who completes less than eighty percent (80%) of the required classroom and laboratory training hours.
  6. Reimbursement for training shall not be considered earned unless one hundred percent (100%) of the trainer's time is accounted for as specified in the contract and includes specific activities:
    - A. At a minimum, the trainer's assistance must be customized to the needs of the individual trainees and, at the completion of training, the trainer must assess each trainee's attainment of competencies.
    - B. In addition, the trainer may engage in and also account for the time spent in making specific assignments to the trainee and the time interacting with, coaching and continually evaluating and providing feedback to the-trainee on his/her performance on assignments.

7. Administrative costs may include the lease or rental of facilities, except:
  - A. Those public education facilities where the specified training is provided for which the grant is paying tuition and fees,
  - B. Salaries, wages and reasonable benefits paid to personnel to manage or report on the project or the contract agreement, and
  - C. Other such reasonable costs related to direct training as are necessary to the successful completion of the project.
8. Administrative costs are limited to 10% of costs related to direct training incurred by the training projects.

### **EMPLOYER MATCHING REQUIREMENTS; EXEMPTIONS**

1. Project funds awarded as a grant-in-aid shall be matched by private funds provided by the employer or employers benefiting from the project in an amount at least equal to the total amount provided by the grant. However, no matching funds shall be required in the case of training stipends paid to participants in an apprenticeship training program provided by a labor organization to its members. As the Program shall attempt to leverage private funding, grant applications which provide matching private funds beyond the amount equal to the total amount provided by the grant (i.e., 2:1, 3:1, 4:1, etc.) shall be considered by the Board as evidencing the applicant's commitment to the overall training, retraining and upgrading of existing Nebraska employees.
2. The Commissioner may modify the guidelines for employers with fewer than 20 employees. Employers with fewer than 20 employees that receive a grant must provide a matching amount of private funds in an amount at least equal to 25% of the total project cost.
3. The Commissioner may modify the grant requirements for projects that provide significant benefits to an entire region of the state or provide training in emerging industries. Projects that provide significant economic benefits to the entire state may have all matching requirements waived at the discretion of the Commissioner. Such projects must provide information describing the region to which the benefits will accrue and projected economic information which demonstrates positive effects on the region's average weekly wage, tax base, employment rates, family income, purchasing power, expenditures on unemployment insurance, Aid to Families with Dependent Children, Medicaid and other public assistance, and the availability of job openings in demand or emerging occupations.
4. Employers may meet matching requirements by providing documented in-kind contributions. Documentation of in-kind contributions which are submitted as part of the employers' match must specify the dollar value of facilities; equipment, personnel and consumable supplies submitted to the project. New equipment will be valued at cost. Existing equipment and facilities will be valued on a *pro rata* basis for the time used for training consistent with the U.S. Internal Revenue Service depreciation schedules for such assets based on data provided by the employer.

5. Personnel contributions will be valued on a *pro rata* basis for the time spent on the project. In-kind contributions may not include the value of facilities, equipment or personnel existing in public education institutions where such resources are already available to the employer as at of course offerings or for which the grant is paying tuition or fees. In-kind contributions may match either costs related to direct training or administrative costs. The sum of costs related to direct training and administrative costs will be used to determine the total matching costs required for any grant awarded.

## **GRANT APPLICATION PACKET REVIEW**

The Department shall prepare, and the Commissioner shall approve, a grant application packet. On an annual basis, the Board shall review and evaluate the grant application packet to ensure:

1. The packet contains all information necessary to allow the applicant to complete the application forms and participate in the grant application and approval process,
2. The application form is no longer than is necessary to adequately describe the applicant, the participating employers and the training project to the Board,
3. The application form does not contain unreasonable demands for information that inhibit an applicant from participating in the Program, and
4. Information needed for grant applications, which may already be provided in the Department's administrative records or files, may be accessed by the Department for purposes of providing technical assistance for an individual grant application or to reduce the duplication of information which employers may already have on file. Re-use of available information shall be the option of the employer. Informed consent agreements with the respective employer(s) shall be completed to secure such information.



## **SECTION VI. PROGRAM / PROJECT RECORDS**

---

### **PUBLIC RECORDS**

1. Requests for public documents shall be made to the Commissioner in writing and shall contain the name of the requestor, the address and telephone number of the requester, and the specific documents being requested.
2. A per-page photocopying fee shall be charged by the Department to all individuals and organizations filing a request for public documents. A reasonable charge for the Department's labor spent copying public information will be assessed.
3. Information received is subject to public records requirements of *Neb. Rev. Stat. §84-712, et seq.*

### **TRAINING PROVIDER ELIGIBILITY; RECORDS**

1. Training providers shall be required to demonstrate to the Commissioner, upon request, that satisfactory evidence that the training provider has sufficient competencies to provide the training that it proposes to provide through either professional credentials or an established history of providing training and placement services to the public.
2. Training providers shall maintain and make available:
  - A. Records that clearly document all aspects of training and retention related to the training,
  - B. Applicable financial records which document funds received and disbursed, and
  - C. Records of attendance of training recipients.
3. All classroom/laboratory training records shall be completed daily and shall contain the following elements:
  - A. Date training occurred.
  - B. Type of training.
  - C. Subject(s) covered.
  - D. Number of hours trainee was in attendance.
  - E. Instructor(s) name(s) typed or clearly printed.
  - F. Instructor(s) daily signature.
  - G. Trainees name(s) typed or clearly printed.

- H. Make-up classes identified as "Make-up".
- 4. For purposes of above records, grant applicant developed documentation forms shall be provided to the Department for review and approval prior to implementation. All training records for individual trainees shall contain a pre- and post-training skill assessment dated by the trainee, trainer(s) and supervisors.
- 5. All training records shall be retained no less than three years after final payment is made under the grant. If the contract is partially or completely terminated, records shall be preserved and made available to the Department for a period of three years from the date of any resulting final settlement. Records which relate to litigation or settlement of claims arising out of the performance of a contract shall be retained by the contractor and made available to the Department for a period of three years after the final disposition of such appeals, audits, claims, exceptions, or litigation. All records shall be retained within the control of the primary contractor and shall be open to inspection by the Department at any time during normal business hours of the contractor. In absence of records or supporting documentation necessary to substantiate performance under the contract, the contractor may be required to return Program funds, plus interest.

## **PROJECT REVIEW; MONITORING**

- 1. The Department may prepare a special review of contract performance every six months after the start of a project. Such reviews shall contain:
  - A. Grantee's actual enrollments compared with planned enrollments at that stage of the training project.
  - B. Assessment of the likelihood that the full amount of the contract will be earned.
  - C. Recommendations to the Commissioner for amendments to the grant contract or to de-obligate funds. In these cases, the Department shall notify the contractor of the Commissioner's intention to de-obligate funds and the contractor shall have the opportunity to make a presentation before the Commissioner prior to any final action.
- 2. The Department may schedule periodic on-site visits to the grantee's place of business or the location of the training program funded by the Commissioner for the purpose of reviewing training activities for compliance with the Program guidelines and contract specifications. During the on-site visit, the Department may perform any or all of the following:
  - A. Review the number of trainees entering, progressing through or completing training,
  - B. Review the training schedule,
  - C. Review the curricula,
  - D. Observe classroom, laboratory or on-site training in session,

- E. Assure that budgeted and required training staff, equipment, supplies or materials are available,
  - F. Interview trainers or trainees,
  - G. Review record keeping and daily documentation of training; Review invoices,
  - H. Review agreements and determine if all specified services are being delivered as provided for in the contract.
3. The results of the visit shall be documented in a report covering all areas reviewed, and include an assessment whether the training is meeting the Program guidelines and contract specifications. If the training activities are out of compliance, recommendations for adjustment shall be made. Corrective action must be effected by the training provider as specified in the report. A copy of the report shall be provided to the grantee.

## **SECTION VII. CONTRACTS AND AGREEMENTS**

---

### **CONTRACTS / CONTRACT PERFORMANCE**

1. The Commissioner may recommend approval of any project that meets the requirements of these guidelines. If the Governor approves a project and funds are available, the Department shall enter into a contract with the grant applicant and with each employer or apprenticeship training provider participating in the project. In the case of consortiums, only the lead employer need sign the contract. The contract must specify those skills and competencies to be gained as a result of the project.
2. Reimbursable costs in the contract may include only those expenses authorized under these guidelines. Total administrative costs for any particular project may not exceed 10 percent of the project's expenditures.
3. Each contract must provide a schedule for payment of the training and support trust fund money. The grant award shall be payable by the Department 45 days after the date of completion of the project. If the grant applicant is an employer or consortium of employers and all of the trainees in the project have been retained in employment for that 45-day period, the amount of the grant award shall be remitted to the employer. Subject to the attrition allowance set forth below, for each trainee who is not retained in employment for that 45-day period, the amount withheld shall be reduced by the amount of the training costs for that trainee that is derived from grant money, and any balance shall be remitted to the employer. In the case of apprenticeship training programs eligibility for referral by a union hall shall be considered retention in employment.

### **Contracts and Contract Amendments**

1. The Department shall enter into a contract with each employer, employer designee, or apprenticeship training provider participating in the project. Contract amendments must be requested in writing at least 30 days prior to the proposed changes and must be executed before changes are implemented. Acceptance of the requested amendment is within the discretion of the Commissioner. Contracts and contract amendments will be executed by the authorized employer's representative and the Commissioner, or his or her designee.
2. Within 30 calendar days after the expiration of the 45-day retention period for each project, the employer or apprenticeship training provider shall submit to the Department for verification the employment records for each trainee and other such data as the Department may require to verify training and employment. The Commissioner may waive the 45-day waiting period for participants in apprenticeship training programs.
3. If all trainees specified in each project have been retained in employment 45 days subsequent to that project end date, the grant award shall be remitted to the employer(s). Notwithstanding any other provision of these rules, an attrition rate of 15% is allowed based on the total number of jobs as outlined in the contract. For attrition beyond the level specified in the contract, the grant amount will be reduced for each trainee who is not retained in employment at the end of the 45-day retention period by the amount of the training costs for that trainee.

## **Deobligation of Unearned Funds**

The Commissioner may deobligate any unearned funds remaining under a contract no later than six months after the termination date of the contract. If the final billing is not resolved by that time due to delays in submission or processing or unresolved appeals, the Department shall be directed to estimate, based upon the grantee's billing to the Department, the maximum that could be earned by the grantee and shall deobligate all remaining funds no later than six months after the termination date of the contract. Funds which have not been claimed within one year after the termination date of the contract shall be deobligated and made available for subsequent grant applications.

## **Audits**

1. The Commissioner shall, on an annual basis, provide for audits of a representative sample of training contracts. These audits shall determine whether certification of eligibility for training, enrollment in training, training, placement of a job, retention in that job at the specified wage and payments were made in accordance with the contract.
2. The Commissioner shall provide for audits of training contract budgets, both for reasonable training and administrative costs.
3. The Commissioner may provide for pre-award audits of training contracts to determine whether the contractor can perform the planned training.

## **Collection Procedures**

1. Overpayment. The Department shall notify the grantee by demand letter that an overpayment exists, and such notification shall include the project billing. The demand letter shall be sent by certified mail and request payment in full within 30 days of date of mailing of the letter. If payment is not received within 30 days, a second notice of overpayment shall be sent to the contractor requesting payment in full within five days. If payment is not received within five days, the Department shall prepare a final notice requesting payment within five days.
2. Nonpayment. If payment is not received within five days of the final notice and no appeal is filed to extend the appeal period, the matter shall be referred to the Department's general counsel for action.
3. The Department may accept installment payments on refunds owed. Payment through installment payments shall be limited to unusual circumstances.
4. The Department may seek to collect refunds through civil action brought in the name of the Commissioner.
5. The Department may consider other methods of liquidating the account as approved by the Attorney General.
6. Installment proposals shall provide a payment schedule that will liquidate the liability at the earliest possible time. The debtor shall show the reason for an installment plan and

its financial ability to remain solvent during the pay-back period. The Department may also require an audited financial statement from the grantee.

## **APPEAL PROCESS**

1. A grant applicant may appeal any adverse decision made on behalf of the Commissioner within 30 days following receipt of a written notice of the decision. All appeals shall be filed in writing with the Commissioner and sent to the Department's administrative offices. The formal appeal shall include the following:
  - A. A statement setting forth the facts at issue and all evidence supporting the appeal, and
  - B. An original and two copies of all materials and evidence supporting the appeal. This documentation must be tabbed and numbered.
2. The Commissioner shall respond to the appeal in writing within 60 days of the receipt of the grant applicant's written appeal. The grant applicant may appeal the Commissioner's decision. Such appeal shall be made in accordance with the Administrative Procedure Act.

## **SECTION VIII. PROGRAM PLANNING**

---

### **ANNUAL REPORT**

The Board shall report to the Governor at the end of each fiscal year regarding the activities of the program financed by the Nebraska Training & Support Trust Fund for the previous fiscal year. The report shall contain an assessment of the effectiveness of the program and its administration.

**SECTION IX.****INDEX**

|  |    |
|--|----|
| Administration of program .....        | 10 |
| Allowable costs .....                  | 18 |
| Annual report.....                     | 28 |
| Appeal process .....                   | 27 |
| Application awards .....               | 17 |
| Application process and timeline ..... | 16 |
| Application requirements.....          | 17 |
| Audits .....                           | 26 |
| Authority .....                        | 1  |
| Board membership .....                 | 1  |
| Collection procedures .....            | 26 |
| Contract amendments.....               | 25 |
| Contracts .....                        | 25 |
| Definitions and terms .....            | 4  |
| Deobligation of unearned funds .....   | 26 |
| Displacement .....                     | 14 |
| Training providers .....               | 22 |
| Funding .....                          | 2  |
| Grantee .....                          | 26 |
| In-kind contributions .....            | 21 |
| Legislative background .....           | 1  |
| Project review.....                    | 23 |
| Nonpayment.....                        | 26 |
| Grants.....                            | 12 |
| Overpayments .....                     | 26 |
| Project records .....                  | 22 |
| Reimbursement.....                     | 18 |
| Retraining certification.....          | 13 |
| Terms and definitions .....            | 4  |
| Uses .....                             | 10 |